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ESO 1356
OAL-029
June 1987

INFORMATION FOR EMPLOYERS ABOUT
THE NEW IMMIGRATION LAW

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The Immigration Reform and Control Act of 1986 affects all American employers. Final regulations and other materials explaining the details of how the law will be enforced are not yet available. The following information is based on proposed regulations issued in March 1987.

The Immigration and Naturalization Service (INS) is now in the process of preparing final regulations and materials which will be available in the near future. The attached form may be used by employers until a final form is available.

Employment Eligibility Verification

The new law makes it illegal to hire an unauthorized alien. An alien is an unauthorized alien unless: 1) the alien is lawfully admitted to the United States for permanent residence, or 2) the alien is authorized by the Immigration and Naturalization Service to be employed. The law does not apply to independent contractors.

The employer must verify the status of all employees

hired after November 6, 1986. The attached form, prepared by the Immigration and Naturalization Service (Form I-9), is to be used for this purpose.

Several classes of aliens are authorized to be employed in the United States as a condition of their status and no specific employment authorization is required. These classes include:

- 1) lawful permanent resident alien;
- 2) alien admitted as refugee, for the specific period admitted;
- 3) alien paroled into the United States as a refugee, for the period of time in that status;
- 4) alien granted asylum, for period of time in that status;
- 5) alien admitted to the United States as a nonimmigrant fiance or fiancée, for the period of admission to the U.S.;
- 6) alien admitted or whose status is changed to:
 - a) nonimmigrant crewman,
 - b) temporary worker or trainee,
 - c) applicants for adjustment of status (permitted by the new law).

New employees must complete the top portion of Form I-9 and present original documents which establish both employment authorization and identity. The employer must examine these documents to determine employment eligibility. The employer then completes and signs the employer portion of Form I-9. The employer may copy documents presented by the employee as proof of employment eligibility if the copies are attached to Form I-9. The employer may not copy employment eligibility documents for any other purpose.

The following documents are acceptable to show both identity and employment eligibility:

- 1) United States passport;
- 2) Certificate of U.S. citizenship (INS Form N-560);
- 3) Certificate of Naturalization (INS Form N-550);
- 4) unexpired foreign passport which:
 - a) contains an unexpired stamp which reads processed for I-551 "...", or
 - b) has a Form I-94 attached which is unexpired that does not restrict or limit employment of the type for which the alien is being hired;
- 5) Alien Registration Receipt Card (INS Form I-15) with photograph, or Resident Alien Card (INS Form I-55) with photograph;
- 6) Temporary Resident Card (INS Form I-688) with photography, or Employment Authorization Card (INS Form I-688A) with photograph.

The following documents are acceptable to show identity only:

- 1) state issued driver's license;
- 2) U.S. Military Card;
- 3) other types of identification-only documents and identification documents for minors have not been specifically designated.

Some states issue identification cards. These are proof of identity if they include a photograph.

The following documents are acceptable to show employment authorization only:

- 1) Social Security Card (other than one not valid for employment purposes);
- 2) Unexpired Reentry Permit (INS Form I-327);
- 3) Unexpired Refugee Travel document (INS Form I-571);
- 4) Certification of Birth issued by Department of State (Form FS-545);
- 5) Certification of Birth Abroad issued by the Department of State (Form DS-1350);
- 6) original or certified copy of a birth certificate issued by a state.

If employment authorization documents expire for any employed alien, the employer must reverify employment eligibility in order to legally continue the alien's employment.

Employers are not required to verify the status of employees hired before November 7, 1986. No penalties will be assessed against

an employer for retaining an illegal alien hired before November 7, 1986. This does not give the illegal alien the right to legally remain in the United States. The employer should advise undocumented aliens of the two programs available for adjustment of status (discussed below).

If an employer chooses to verify the status of employees hired before November 7, 1986, the employer must verify the status of all employees.

Illegal Aliens

Two programs under the new law permit certain illegal aliens to apply to the Immigration and Naturalization Service for legal resident status.

The Legalization Program permits illegal aliens, who have been residents in the United States since January 1, 1982, to apply for the status of temporary resident. This program also permits aliens with temporary resident status to apply for permanent resident status.

The Special Agricultural Worker (SAW) Program allows field workers in perishable agricultural commodities, who have been in the United States for 90 days between May 1, 1985 and May 1, 1986, to apply for temporary resident status. The SAW is a worker who performs seasonal field work related to planting, cultivating, growing, and harvesting of fruits, vegetables, and other perishable commodities. Sorting, packing of agricultural products at places other

than the field site, equipment maintenance, and processing or distribution of agricultural products do not qualify as field work.

An employer may ask an illegal alien the following questions:

1) Do you claim to qualify for the legalization provisions of the new immigration law?

2) Do you intend to apply for legal status and seek interim work authorization from INS?

If the illegal alien answers "yes" to either question, the alien is authorized to work without providing evidence of work authorization. The employer may hire the alien without fear of penalty until September 1, 1987. The employer should indicate on Form I-9 that the individual intends to apply or is applying for one of the programs.

Rehire

If an employer verified the employment eligibility of a previously hired employee, the employer needs to inspect the original Form I-9 when rehiring the same employee. If the employee is still authorized to work, no new Form I-9 is required as long as the rehire is within one year. If the employee is rehired more than a year after separation, the employer must complete Form I-9 just as if the rehire were a new employee.

At the time of original hire, the employee may have been eligible to work for a limited time. The authorized work time indicated on the original Form I-9 may have expired when the employee is rehired. If an inspection of the original Form I-9 indicates that the rehire is not authorized to work, a new Form I-9 must be completed.

Form Retention

Form I-9 is to be retained by the employer for three years or for one year after an employee has terminated, whichever is longer.

Employers are to make forms available for inspection upon oral request and presentation of credentials by either the Immigration and Naturalization Service or the Department of Labor. No warrant or advance notice needs to be given to an employer, but the employer has three days to produce the forms after a request has been made.

Violations

An employer is considered to be in violation of the law and subject to penalties if:

- 1) the employer does not complete and retain Form I-9 for all employees hired after November 6, 1986;
- 2) the employer continues to employ an individual hired after November 6, 1986, knowing the employee is or has become an unauthorized alien;
- 3) the employer obtains the labor or services of an unauthorized alien through a contract or subcontract.

Penalties

An employer who knowingly hires or continues to employ an unauthorized alien is subject to the following civil fines:

- 1) first violation: \$250-\$2,000 for each unauthorized alien;
- 2) second violation: \$2,000-\$5,000 for each unauthorized alien;
- 3) more than two violations: \$3,000-\$10,000 for each unauthorized alien.

In addition, failure to comply with the verification requirements of the law may result in a fine of \$100-\$1,000 for each violation.

We will provide you with an update on any changes in the final regulations and let you know where Form I-9 can be obtained when information is made available.

EMPLOYMENT ELIGIBILITY VERIFICATION

1 EMPLOYEE INFORMATION AND VERIFICATION (To be completed and signed by employee)

Name (Print or Type) Last	First	Middle	Maiden
Address Street Name and Number	City	State	ZIP Code
Date of Birth (Month Day Year)		Social Security Number	

I attest, under penalty of perjury, that I am (check a box)

- ☐ A citizen or national of the United States
☐ An alien lawfully admitted for permanent residence (Alien Number A _____)
☐ An alien authorized by the Immigration and Naturalization Service to work in the United States (Alien Number A _____
 or Admission Number _____ expiration of employment authorization, if any _____)

I attest, under penalty of perjury, the documents that I have presented as evidence of identity and employment eligibility are genuine and relate to me. I am aware that federal law provides for imprisonment and/or fine for any false statements or use of false documents in connection with this certificate.

Signature	Date (Month/Day/Year)
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PREPARED BY TRANSLATOR CERTIFICATION (If prepared by other than the individual) I attest, under penalty of perjury, that the above was prepared by me at the request of the named individual and is based on all information of which I have any knowledge.

Signature	Name (Print or Type)
Address (Street Name and Number)	City State Zip Code

2 EMPLOYER REVIEW AND VERIFICATION (To be completed and signed by employer)

Examine one document from those in List A and check the correct box, or examine one document from List B and one from List C and check the correct boxes. Provide the **Document Identification Number** and **Expiration Date**, for the document checked in that column.

List A Identity and Employment Eligibility	List B Identity	and List C Employment Eligibility
<input type="checkbox"/> United States Passport <input type="checkbox"/> Certificate of United States Citizenship <input type="checkbox"/> Certificate of Naturalization <input type="checkbox"/> Unexpired foreign passport with attached Employment Authorization <input type="checkbox"/> Alien Registration Card with photograph	<input type="checkbox"/> A State issued driver's license or ID card with a photograph or information, including name, sex, date of birth, height, weight, and color of eyes (Specify State) _____ <input type="checkbox"/> U.S. Military Card <input type="checkbox"/> Other (Specify document and issuing authority) _____	<input type="checkbox"/> Original Social Security Number Card (other than a card stating it is not valid for employment) <input type="checkbox"/> A birth certificate issued by State, county, or municipal authority bearing a seal or other certification <input type="checkbox"/> Unexpired INS Employment Authorization Specify form # _____
Document Identification # _____	Document Identification # _____	Document Identification # _____
Expiration Date (if any) _____	Expiration Date (if any) _____	Expiration Date (if any) _____

CERTIFICATION I attest, under penalty of perjury, that I have examined the documents presented by the above individual, that they appear to be genuine, relate to the individual named, and that the individual, to the best of my knowledge, is authorized to work in the United States.

Signature	Name (Print or Type)	Title
Employer Name	Address	Date